IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE THIRTY FIRST DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

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WRIT PETITION NO : 4033 of 2005

Between:

S.P.R.R. High School, Kuchinapudi, Guntur Dist. rep. by its Correspondent.

..... PETITIONER

AND

1 State of Andhra Pradesh, Rep. by its Secretary to Govt. Education Department, Secretariat, Hyderabad.
2 The Commissioner & Director of School Education, A.P. Hyderabad.
3 The Regional Joint Director of School Education, Guntur.
4 The District Educational Officer, Guntur.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue on appropriate Writ Order or direction particularly one in the nature of writ of Mandamus declaring as illegal, arbitrary the action of the Respondents in not allowing the petitioner to fill-up the vacant aided posts in turn permission granted by the 3rd Respondent in F.W.L. Dis.No. 3618/B1/203 dt. 19-2-2004 and issue a consequential Direction to the Respondents to forthwith allow the petitioner to fill-up the posts.

Counsel for the Petitioner: MR.AKA.VENKATARAMANA

Counsel for the Respondents: GP FOR EDUCATION

The Court at the admission stage made the following :

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THE HON'BLE MS.JUSTICE G.ROHINI

WRIT PETITION NO.4033 OF 2005

O R D E R:

This writ petition is filed seeking a Writ of Mandamus declaring the action of the respondents in not allowing the petitioner to fill-up the vacant aided posts in terms of permission granted by the 3rd respondent - The Regional Joint Director of School Education, Guntur, dated 19-02-2004 as arbitrary and illegal. The petitioner also seeks a consequential direction to the 4th respondent – The District Educational Officer, Guntur to fix the date for conducting selections in terms of permission granted by the 3rd respondent – The Regional Joint Director of School Education, Guntur, dated 19-02-2004.

It is stated that seven posts i.e, B.Ed. Asst. Sci (PS) post-1, S.G.B.T. Posts-3, Drawing Teacher-1, Record Assistant Post-1, Gr.II Hindi Pandit post-1 fell vacant in the petitioner School and for filling up the said posts, the petitioner has already taken all the necessary steps and the Competent Authority has also accorded the necessary permission vide proceedings dated 19-02-2004, however the appointments could not be made in view of the General Ban on Recruitment imposed by the Government under the Memo dated 20-10-2004.

The contention of the petitioner is that the General Ban under Memo dated 20-10-2004 cannot be made applicable to the case on hand since the Competent Authority has accorded necessary permission to fill up the posts much prior to the ban

imposed under the Memo dated 20-10-2004. In support of the said contention, the learned Counsel for the petitioner has relied upon a decision of this Court in W.P.No.22188 of 2004, wherein this Court has dealt with an identical issue. This Court, having considered the scope of Memo dated 20-10-2004, held that in the Memo dated 20-10-2004 though it is stated that no new posts of grant-in-aid would be created and the existing vacancies will also not be filled up, in the very same Memo it is stated that the general ban is not applicable for the posts for which permission was specifically granted by the Government and accordingly permitted the petitioner therein to proceed with the selection process notwithstanding the ban imposed under the Memo dated 20-10-2004.

The learned Counsel for the petitioner submits that the ratio laid down in the said decision squarely applies to the case on hand and therefore the petitioner may be permitted to fill up the vacancies in question notwithstanding the ban imposed under Government Memo dated 20-10-2004.

The learned Government Pleader for School Education appearing for the respondents does not dispute the same.

Accordingly, the Writ Petition is disposed of with a direction to the respondents to consider the request of the petitioner for filling up the vacancies in question in accordance with law notwithstanding the ban imposed under Government Memo dated 20-10-2004. No costs.

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(**G. ROHINI, J**)

Date: 31-03-2005

Note: CC in one week.

B/o

ghn

To

1 Secretary to Govt. Education Department, State of Andhra Pradesh, Secretariat, Hyderabad.
2 The Commissioner & Director of School Education, A.P. Hyderabad.
3 The Regional Joint Director of School Education, Guntur.
4 The District Educational Officer, Guntur.

5 One CC to Mr. Venkataramana.

6 Two CCs to the Government Pleader for Education, High Court of A.P., Hyderabad. (O.U.T.)

7 Two CD copies.